

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
JOHN DEHN**DEFENDANTS**
NCO FINANCIAL SYSTEMS, INC.(b) County of Residence of First Listed Plaintiff Kearny County, KS
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Montgomery Co., PA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)
David P. Mitchell, Esq., Maney & Gordon, P.A. 101 E. Kennedy Blvd., Suite 3170, Tampa, FL 33602 - 813-888-6700 x 148**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Violation of the TCPA, FDCPA, KSCA
 Brief description of cause:
 Violation of the TCPA, FDCPA, KSCA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JOHN DEHN,	:	CIVIL ACTION
	:	
v.	:	
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

Date:

Respectfully submitted,



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 Counsel for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Mr John Dehn, 2306 Road 200, Deerfield, KS 678

Address of Defendant: NCO Financial Systems, Inc., 507 Prudential Road, Horsham PA 19044-0

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☐

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Robert P. Cocco, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 10/1/15

[Signature]
Attorney-at-Law

81907
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/1/15

[Signature]
Attorney-at-Law

81907
Attorney I.D.#

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

JOHN DEHN,

Plaintiff,

CASE NO:

-vs-

NCO FINANCIAL SYSTEMS, INC.,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JOHN DEHN, sues the Defendant, NCO FINANCIAL SYSTEMS, INC., and alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this action to recover statutorily prescribed damages for acts on the part of Defendant in violation of the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227, *et seq.* (hereafter “TCPA”), the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereafter “FDCPA”), and the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.* (hereafter “KCPA”).

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331 as this case presents a federal question, and supplemental jurisdiction under 28 U.S.C. § 1367 for the related state law claims.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that this is the judicial district in which the Defendant resides.

FACTUAL ALLEGATIONS

4. Plaintiff is a debtor/consumer, or alleged debtor/consumer, as defined by K.S.A. 50-624(b) and 15 U.S.C. § 1692a(3).

5. Plaintiff is the “called party” with respect to the cellular telephone calls described herein. See Soppet v. Enhanced Recovery Co., LLC, 679 F.3d 637, 643 (7th Cir. 2012); Breslow v. Wells Fargo Bank, N.A., 755 F.3d 1265, 1266, 1267 Communications Reg. (P & F) 934 (11th Cir.2014).

6. At all times material, Defendant, NCO FINANCIAL SYSTEMS, INC., (hereafter “NCO”), was and is a corporation engaged in the business of collecting debts within the Commonwealth of Pennsylvania and the State of Kansas, with its principal place of business located at 507 Prudential Road, Horsham, PA 19044.

7. At all material times, Defendant sought to collect an alleged debt from Plaintiff that arose from a transaction incurred for personal, family or household purposes, and was therefore operating as a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. §1692a(6).

8. Defendant NCO is a “supplier” as defined by K.S.A. 50-624(l).

9. As described herein, Defendant NCO employed business practices resulting in intentional harassment and abuse of the Plaintiff, and engaged in patterns of outrageous, abusive and harassing conduct by and through its agents and representatives in an effort to collect an alleged debt from Plaintiff that Plaintiff does not owe.

10. Defendant NCO consents of and has knowledge and control of the collection activities of its agents and representatives, including supervisors, managers, affiliates, subsidiaries, divisions, employees, servants, partners, agents, vendors, assignees, transferees,

collectors and/or contractors with respect to the collection activities at issue, as further described herein.

11. In or about mid-November of 2014, Defendant NCO began its campaign of collection calls to Plaintiff's cellular telephone number, (620) 640-0501, in an effort to collect a debt allegedly owed by Plaintiff, and which Plaintiff does not owe. Plaintiff's caller ID reflected that the Defendant's calls originated from the numbers (612) 844-0919 and (703) 656-9963, among others. Additionally, several of the calls at issue from NCO would appear on Plaintiff's caller ID as an entity other than NCO or with no identification at all.

12. Upon answering the initial call, Plaintiff spoke to Defendant's representative and instructed Defendant that he did not owe the alleged debt, and demanded that Defendant not call him again on his aforementioned cellular telephone number.

13. Despite Plaintiff demanding that Defendant NCO stop placing calls to his aforementioned cellular telephone number, Defendant NCO continued its campaign of harassing debt collection calls to Plaintiff's aforementioned cellular telephone number.

14. On several occasions, Defendant would place calls to Plaintiff's aforementioned cellular telephone number and hang up either prior to or as soon as Plaintiff or the Plaintiff's voicemail answered the call.

15. To date, Plaintiff has received in excess of five-hundred (500) calls from Defendant NCO on his aforementioned cellular telephone number.

16. Upon information and belief, the telephone calls at issue were placed by Defendant NCO to Plaintiff's aforementioned cellular telephone number using an "automated telephone dialing system" as defined by the TCPA, 47 U.S.C. §227(a)(1), which has the capacity to store or produce telephone numbers to be called, using a random or sequential number

generator, and to dial such numbers; and/or which has the capacity to dial numbers from a list without human intervention (hereafter “ATDS” or “auto-dialer”).

17. Defendant NCO initiated each of the calls at issue to Plaintiff’s aforementioned cellular telephone number without the “prior express consent” or “prior express invitation or permission” of Plaintiff as specified by the TCPA, 47 U.S.C. § 227(b)(1)(A).

18. Additionally, none of the telephone calls at issue were placed by Defendant NCO to Plaintiff’s aforementioned cellular telephone number for “emergency purposes” as specified by the TCPA, 47 U.S.C. §227(b)(1)(A).

19. Defendant NCO has a corporate policy of initiating debt collection calls using an automatic telephone dialing system and/or a prerecorded or artificial voice message, just as it did when calling the Plaintiff’s aforementioned cellular telephone number, as described herein.

20. Defendant NCO willfully and/or knowingly violated the TCPA with respect to the Plaintiff.

21. Despite actual knowledge of its wrongdoing, Defendant NCO continued its campaign of harassment and abuse.

22. Defendant NCO’s corporate policy provided no means for the Plaintiff to have his number removed from the call list.

23. Defendant NCO intentionally harassed and abused the Plaintiff on numerous occasions by calling several times per day, and on back to back days, with such frequency as can reasonably be expected to harass, even after Plaintiff repeatedly told Defendant’s representatives to stop calling.

24. Defendant NCO has a corporate policy to harass and abuse individuals despite actual knowledge that the called parties do not owe the alleged debts that are the subject of NCO's collection calls.

25. Defendant NCO followed its corporate policy when placing the calls at issue to Plaintiff's aforementioned cellular telephone number.

26. Defendant NCO has been the recipient of numerous complaints from debtors, alleged debtors, and non-debtors across the country, similar to those alleged in this action by Plaintiff.

27. Defendant NCO has, or should be in possession and/or control of call logs, account notes, auto dialer reports and/or other records that detail the exact number of calls made to Plaintiff over the relevant time period.

28. As a direct and proximate result of Defendant's actions, Plaintiff has sustained mental pain and suffering, emotional distress, mental anguish, inconvenience, and loss of capacity for the enjoyment of life.

29. All conditions precedent to the filing of this action have occurred.

COUNT I

VIOLATION OF THE TCPA AGAINST NCO

30. Plaintiff re-alleges and incorporates by reference the allegations of Paragraphs (1) through (29), as if fully set forth herein.

31. None of the calls at issue were placed by Defendant NCO to Plaintiff's aforementioned cellular telephone number with the "prior express consent" or "prior express invitation or permission" of Plaintiff, as specified by the TCPA, 47 U.S.C. § 227(b)(1)(A).

32. Alternatively, Defendant initiated the calls at issue to Plaintiff's aforementioned cellular telephone number subsequent to Plaintiff's revocation of any "prior express consent" Plaintiff may have previously provided to Defendant, or that Defendant mistakenly believed it had.

33. Additionally, none of the calls at issue were placed by Defendant NCO to Plaintiff's aforementioned cellular telephone number for "emergency purposes" as specified by the TCPA, 47 U.S.C. § 227(b)(1)(A).

34. Defendant willfully and/or knowingly violated the TCPA with respect to Plaintiff by repeatedly placing non-emergency calls to Plaintiff's aforementioned cellular telephone number using an automated telephone dialing system and/or prerecorded or artificial voice message without Plaintiff's prior express consent, and after Plaintiff instructed Defendant to cease calling Plaintiff, as specifically prohibited by the TCPA, 47 U.S.C. §227(b)(1)(A)(iii).

35. The TCPA provides Plaintiff with a private right of action against Defendant NCO for its violations of the TCPA, as described herein, pursuant to 47 U.S.C.A. § 227(b)(3), and permits both injunctive relief in addition to statutory damages.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant NCO for statutory damages, actual damages, punitive damages, costs, interest and for such other relief as this Court deems just and proper.

COUNT II

VIOLATION OF THE FDCPA AGAINST NCO

36. Plaintiff re-alleges and incorporates by reference the allegations of Paragraphs (1) through (29), as if fully set forth herein.

37. Plaintiff has been the subject of collection activity by Defendant NCO arising from an alleged consumer debt.

38. Defendant NCO is a “debt collector” as defined by the FDCPA.

39. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692d by engaging in conduct in connection with the collection of a debt, the natural consequence of which is to harass, oppress, or abuse Plaintiff.

40. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692d(5) by causing Plaintiff’s cellular telephone number to ring or engaging Plaintiff in telephone conversations repeatedly or continuously with the intent to annoy, abuse, or harass Plaintiff at the called number.

41. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692d(6) by calling Plaintiff’s aforementioned cellular telephone number and hanging up prior to or as soon as the Plaintiff or the Plaintiff’s voice mail answered the call, in such a way as to fail to provide a meaningful disclosure of its identity.

42. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692e(2)(a) by failing to accurately represent the character, amount, or legal status of any debt.

43. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692e(10) by the use of any false representation or deceptive means to collect or attempt to collect a debt from Plaintiff or to obtain information concerning Plaintiff.

44. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692e(11) by calling Plaintiff’s aforementioned cellular telephone number and hanging up prior to or as soon as the Plaintiff or the Plaintiff’s voice mail answered the call, in such a way as to fail to disclose that the communication was from a debt collector.

45. Defendant NCO engaged in an act or omission prohibited under 15 U.S.C. §1692f by using unfair or unconscionable means to collect or attempt to collect a debt from Plaintiff.

46. Defendant NCO's acts and omissions as described herein have directly and proximately resulted in Plaintiff's prior and continuing sustaining of damages as described by 15 U.S.C. §1692 including, but not limited to: statutory damages, actual damages in the form of emotional pain and suffering, fear, worry, embarrassment, humiliation and loss of the capacity for the enjoyment of life, and attorneys' fees and costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant NCO for statutory damages, actual damages, attorneys' fees, costs, interest and such other relief as this Court deems just and proper.

COUNT III

VIOLATION OF THE KCPA AGAINST NCO

47. Plaintiff re-alleges and incorporates by reference the allegations of Paragraphs (1) through (29), as if fully set forth herein.

48. Plaintiff is a "consumer" as defined by K.S.A. 50-624(b).

49. Defendant NCO is a "supplier" as defined by K.S.A. 50-624(l).

50. At all times relevant, Defendant NCO was engaged in "consumer transactions" as "suppliers" as defined by K.S.A. 50-624(c).

51. K.S.A. 50-626 prohibits "suppliers" from using unfair or deceptive practices.

52. K.S.A. 50-627 prohibits "suppliers" from using unconscionable consumer sales acts or practices.

53. Under the KCPA, a violation of the FDCPA is also a violation of the KCPA.

54. Defendant's debt collection actions as more fully described in the preceding paragraphs violate the KCPA.

55. Defendants violated K.S.A. § 50-627(a) engaging in unconscionable acts in manners such as, but not limited to:

- a. Violating § 50-627(b)(1) K.S.A. by taking advantage of the inability of Plaintiff to reasonably protect their interests because of physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor;
- b. Violating K.S.A. § 50-627(b)(3) by engaging in a transaction where Plaintiff were unable to obtain a material benefit because Defendants sought to collect a debt that Plaintiff did not owe;
- c. Violating K.S.A. § 50-627(b)(5) by inducing attempting to induce Plaintiff to enter into an agreement that was excessively one sided in favor of Defendant because Plaintiff obtained no benefit from their payment to Defendant because Plaintiff did not owe the alleged debt;
- d. Violating K.S.A. § 50-627(b)(6) by making misleading statements of opinion on which the Plaintiff was to Plaintiff's detriment, such as that Defendant was able to "settle" the alleged debt and that nonpayment of this alleged debt would result in adverse consequences to the Plaintiff.

56. Defendant's acts were reckless, willful, and intentional and/or were done with knowledge of their harmful effects towards Plaintiff and as such Defendant is subject to punitive damages.

57. Defendant's acts and omissions, when a duty to act was owed, constitute numerous and multiple violations of the KCPA, including every one of the above cited provisions and as such Plaintiff is entitled to damages.

58. Section 50-634, K.S.A., provides for a private right of action for "a consumer who is aggrieved by a violation of this act," statutory damages, civil penalties, and attorney's fees and costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant NCO for statutory damages, actual damages, punitive damages, attorneys' fees, costs, interest and such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable.

Respectfully submitted,



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